
Z-2277
LAFAYETTE SAVINGS BANK - HARRY A. DUNWOODY
AW TO A

STAFF REPORT
January 12, 2005

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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner is requesting rezoning of 2.496 acres located south of SR 38 E, just west of the South Fork of Wildcat Creek. If approved, this request would legitimize the existing duplex located on site, more specifically known as 7911-7913 SR 38 E, Sheffield 9 (NE) 22-3.

ZONING HISTORY AND AREA ZONING PATTERNS:

Until recently the site was zoned Flood Plain and AW. A flood certification was submitted in December of last year, which was approved by staff. The portion of the site that was certified out of the FP zone took on the adjacent Agricultural Wooded (AW) zoning. Property south of SR 38 and east of Dayton is either zoned AW or FP; FP zoning in this area is associated with the South Fork of Wildcat Creek.

A small commercial site located on the north side of SR 38, just west of petitioner's site, was rezoned from AW to A in 2002 (Z-2082) against staff's recommendation. That request permitted that petitioner to seek a special exception to allow a miscellaneous repair business.

AREA LAND USE PATTERNS:

The site is occupied by a duplex, which was constructed in 1999 (after the adoption of NUZO). Most of the frontage along SR 38 is lined with single-family homes, the predominant land use in this area. Just northwest of petitioner's site are two non-conforming junkyards and the special exception site north of the highway, which is no longer used commercially.

TRAFFIC AND TRANSPORTATION:

An ingress/egress easement from SR 38, a secondary arterial in this location, is used to access the duplex. This request would legitimize the existing duplex and would not allow for additional homesites; therefore, it would have little effect on traffic and transportation in this area.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

The County Health Department has record of the existing septic system, which was installed in 2000.

STAFF COMMENTS:

The duplex on site was constructed in 1999 under somewhat cloudy circumstances stemming from floodplain issues and the questionable addition of fill dirt. A building permit was issued for the site in June of 1999 and inspections were done; however, after inquiries and communication with the Indiana Department of Natural Resources (IDNR) the northern portion of the property, building site, was determined to lie in the FP zone based on the regulatory flood elevation and available topographic information. The northern portion of this site was recently certified out of the FP zone by a flood certification and in fact, ample land was certified out so that the structure now complies with the required setbacks from the FP zone. The southern portion of the site

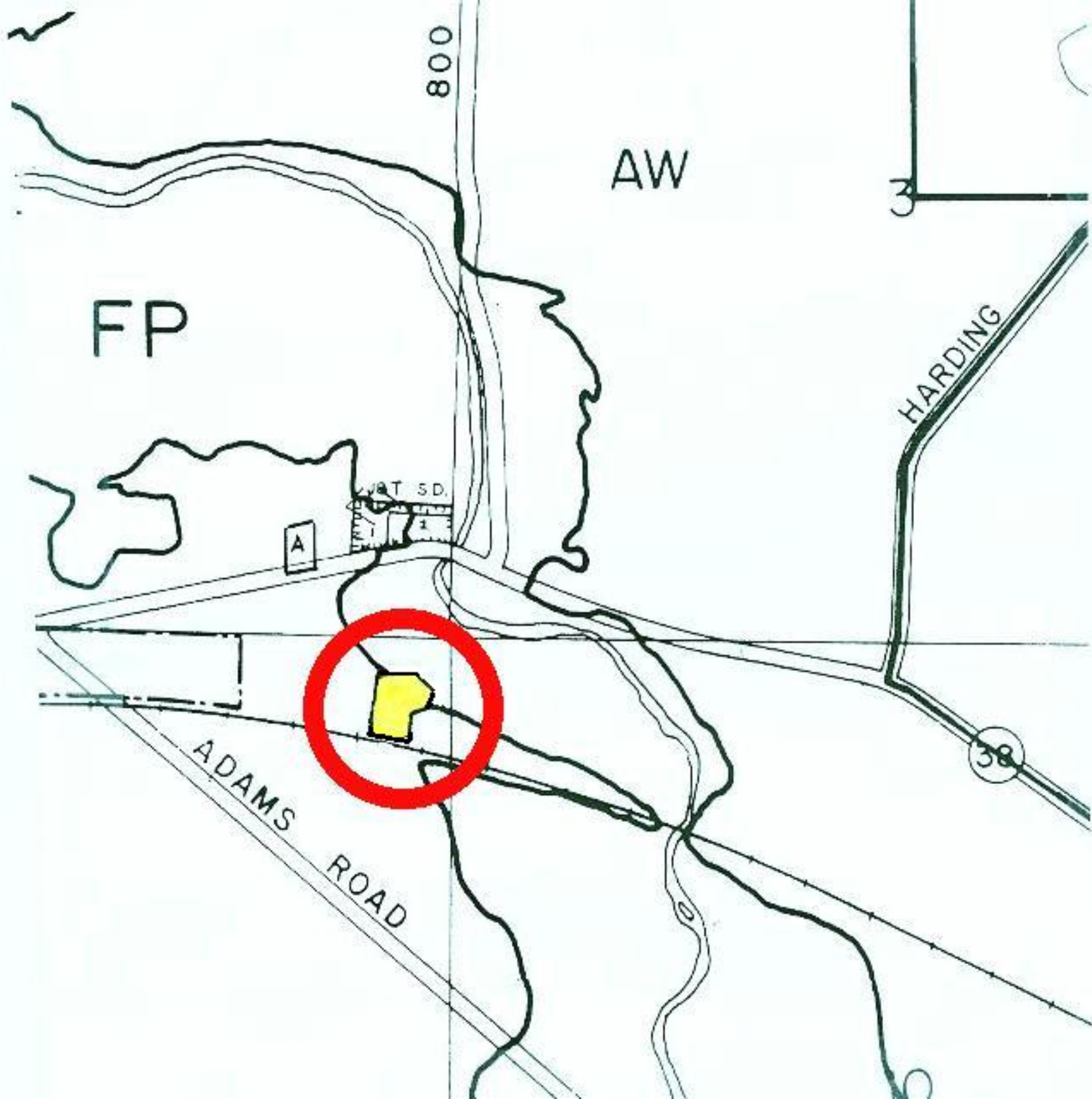
was zoned AW on the zoning map. The area certified out of the FP zone took on the adjacent AW zoning, a zone that does not permit duplexes.

The AW zone was created specifically for wooded, sloped areas where little or no urbanization has occurred or is planned to occur. Areas adjacent to floodplains are typically zoned AW, which makes sense because most of those areas are wooded and/or sloped. The two rural zones in this request, AW and A, have many similarities. Both zones allow single-family homes and some development such as large-lot minor subdivisions. However, the major difference is that several small business uses are allowed in the A zone with a special exception from the Area Board of Zoning Appeals that are not permitted in the AW zone. Furthermore, duplexes are permitted in the A zone, but not AW. Historically, they were allowed in that zone as a measure to provide housing for farm workers or extended family members.

The prohibition of duplexes in the AW zone seems to fall in line with the zone's intent, which specifically states limited residential use. A duplex is by definition a more intense land use than a typical single-family home because of density and the increased number of vehicular trips. Most importantly, the AW zone in this area is appropriate for this sloping area between Dayton and Wildcat Creek. Much of the land east of the site lies in the floodplain; further conservation of the natural elements and limiting permitted uses makes sense. Although rezoning this site would legitimize the existing structure, it would also confer rights to this site that neighboring properties do not have by allowing a broader range of land uses and it would also create an anomalous zoning district in this area.

STAFF RECOMMENDATION:

Denial



Surveyor of the State of Indiana, do
wledge the real property as described in
thin the 100 year Flood Plain of 625.6
a Department of Natural Resources in a